

January 28, 1999

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

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**REPORT AND DECISION ON APPLICATION FOR PRELIMINARY PLAT APPROVAL**

SUBJECT: Department of Development and Environmental Services File No. **L98P0014**

**HAZELWOOD RIDGE**  
Plat Application

Location: East of 116<sup>th</sup> Avenue Southeast, approximately 1000 feet  
north of Southeast 312<sup>th</sup> Street

Owner: Ronald and Sally Glatt, 30824 – 116<sup>th</sup> Avenue Southeast, Auburn, WA 98092

Applicant: Schneider Homes, Inc., *represented by* **Ken Peckham**  
6510 Southcenter Boulevard, Suite 1, Tukwila, WA 98188

**SUMMARY OF RECOMMENDATIONS:**

Department's Preliminary:	Approve, subject to conditions
Department's Final:	Approve, subject to conditions (modified)
Examiner:	Approve, subject to conditions (modified)

**PRELIMINARY MATTERS:**

Application or petition submitted:	March 27, 1998
Complete application:	July 14, 1998

**EXAMINER PROCEEDINGS:**

Hearing Opened:	January 26, 1999
Hearing Closed:	January 26, 1999

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.  
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

## ISSUES/TOPICS ADDRESSED:

- Drainage
- Density
- Recreation Area
- Concurrency
- Fees, Other
- Wildlife Protection
- Well Protection

**FINDINGS, CONCLUSIONS & DECISION:** Having reviewed the record in this matter, the Examiner now makes and enters the following:

## FINDINGS:

1. **General Information.**

Owner: Ronald and Sally Glatt, 30824 – 116<sup>th</sup> Avenue SE, Auburn, WA 98092  
 Developer: Schneider Homes, Inc., 6510 Southcenter Blvd, Tukwila, WA 98188  
 Engineer: Daley-Morrow-Poblete, Inc., 1215 Southcenter Ave #133, Kent, WA 98032

Location: East of 116<sup>th</sup> Avenue Southeast,  
 approximately 1000 feet north of Southeast 312<sup>th</sup> Street

STR: NW ¼ 09-21-05

Zoning: Residential 6 du/Acre (R-6)

Acreage: 5 acres

Number of Lots: 30 lots

Typical Lot Size: 7,260 square feet

Proposed Use: Single-family residential

Sewage Disposal: City of Auburn

Water Supply: City of Auburn

Fire District: King County Fire District #44

School District: Auburn School District #408

Complete Application Date: July 14, 1998

2. **Proposal.** Schneider Homes, Inc. (the “Applicant”) proposes to subdivide a five-acre parcel into 30 single-family residential building lots. The proposed density is six dwelling units per acre, the same as the “base density” for the R-6 zoning classification that is applied to this property. The average lot size, excluding those areas set aside for drainage, streets, sensitive areas protection and recreation, is approximately 5,900 square feet per lot. However, when averaged into the entire parcel area the average lot size calculates at approximately 7,260 square feet. Access will be obtained from 116<sup>th</sup> Avenue Southeast, slightly under 1000 feet northward from the 116<sup>th</sup> Avenue Southeast intersection with Southeast 312<sup>th</sup> Street.
3. **SEPA.** On November 27, 1998 the Department Of Development And Environmental Services (“DDES” or the “Department”) issued a threshold determination of non-significance for the proposed development. That is, the Department announced and published its determination, based upon a review of relevant environmental documents, that the proposal would not cause a probable significant adverse impact upon the environment; and that, consequently, an environmental impact statement would not be required before proceeding further through the review process. No person, agency, tribe or other entity appealed that determination.

4. **Department Recommendation.** The Department recommends granting preliminary approval to the proposed Hazelwood Ridge subdivision, subject to the twenty-one conditions of final plat approval stated on pages 6 through 9 of the Department's preliminary report to the Hearing Examiner dated January 26, 1999 (exhibit No. 1); *except* that the Department recommends amending recommended condition No. 18.

Recommended condition No. 18 addresses "suitable recreation space." Strict implementation of the condition, which relies upon KCC 21A.14.180 and KCC 21A.14.190, would increase the recreational space to be provided within the subdivision boundaries from 6,900 square feet (proposed by the Applicant) to 11,700 square feet. Concerning loss of one residential building lot, the Applicant argues that the proximity to an adjacent elementary school playground should provide sufficient basis to vary from a strict interpretation of the area requirements of 390 square feet per unit. At the Applicant's request, the Department agrees to defer the final decision to the King County Department of Parks, the same agency which reviews proposed recreational space development and which allocates fees-in-lieu of setting aside recreational space. In this case, the Applicant indeed seeks to pay a fee-in-lieu of the full recreational area standard. Opposing any further reduction in average lot size, a neighboring property owner supports the Applicant's position regarding the provision of open space.

5. **Department Report Erratum.** Noting that the location of the subject property is inaccurately described in the "general information" section on page 1 of the Department's report to the Examiner (exhibit No. 1), the Department enters the following correct location: *East of 116<sup>th</sup> Avenue Southeast, approximately 1000 feet north of Southeast 312<sup>th</sup> Street.*

A concerned area resident suggests that the location inaccuracy on the first page of the Department's report may be a basis for continuing the hearing. Having ascertained that the public notices required by law contained accurate location descriptions, the Examiner denied her motion for continuance.

6. **Applicant Accepts Department Recommendation.** The Applicant accepts the Department's final recommendation as described in finding No. 4, above.
7. **Review Issues.** An area resident in hearing attendance raised the following concerns and issues:

- A. Surface Water Management Variance. The Applicant has obtained a surface water management variance from Water And Land Resources Division ("WLRD") that allows drainage discharge from the subject property to be switched from the southeast corner to the southwest corner of the property. Approximately 200 feet downstream the alternative drainage course merges with the original drainage course—at tributary 0069. The surface water management variance indicates that the proposed development contains twenty-seven lots. Actually, thirty lots are proposed. On this basis, the concerned neighboring property owner suggests that the WLRD review should be reconsidered.

Neither the Applicant nor the Department's engineer appears concerned regarding the three-lot discrepancy. Their lack of concern appears to be based upon the perception that the number of lots is not relevant to the nature of the variance granted. That, the

concerned neighbor argues, is something better determined by WLRD.

- B. Transportation Concurrency. According to the testimony of Paula Thrush, Lea Hill Road and the entire TAMS zone within which it is located, are “out of concurrency.” She indicates that this status is a relatively recent development. The Department and the Applicant counter that the proposal received transportation concurrency approval on February 27, 1998, and that timely plat application was filed thereafter. Thus, the transportation concurrency certification issued for this proposed development remains in full effect
- C. Drainage/Sensitive Areas. Relatively steep slopes are located along the south boundary of the subject property. In some locations those slopes encroach upon the subject property and in some locations the slopes exceed 40 percent gradient. Such slopes are set aside in the proposed plat as permanent open space. The un rebutted testimony of Ms. Thrush indicates that the wetland indicator plants are located along the steep slopes, or at least in portions thereof, indicating the presence of seeps along the hillside. The Department’s recommended drainage controls are contained in recommended conditions 8.a and 8.b. Recommended condition No. 8.b requires “Level 2 methodology” based upon the 1998 Surface Water Design Manual. Although the hearing record contains discussion of the drainage circumstances and the Applicant’s conceptual drainage plan, the record contains no evidence of adverse drainage impact.
- The record also shows some disagreement as to the character of the “drainage ditch” along the east side of 116<sup>th</sup> Avenue Southeast immediately south of the subject property. The drainage course or drainage “feature” along that street segment is admittedly wide and shallow, causing some to characterize it more as a “swale” than as a ditch. However, the record contains no evidence that it would fail to accommodate storm water discharges from the proposed development.
- D. Water Well. The hearing record contains testimony that a well is located east of the subject property. Reportedly, the well is approximately sixty-six feet deep, with water first encountered at somewhat over twenty feet deep. The record is unclear, however, as to the precise location of the well, whether the well is certified by the State Department of Ecology or whether the well is used for domestic purposes.
- E. Wildlife. A neighboring property owner expresses concern for the impact that the proposed development may have on wildlife, noting that deer and pileated woodpecker are often seen in the area. However, the hearing record contains no evidence that the subject property is within or abutting any designated wildlife corridor or that the domestic habitat or nesting of any endangered species will be adversely affected.

#### CONCLUSIONS:

1. The hearing record contains no evidence that improper public notice was given; or that the Applicant’s concurrency certificate has expired or been revoked, or that any unmitigated

significant adverse impact will result.

2. Regarding concerns for the drainage variance (27 lots versus 30 lots), it would not be unreasonable to require that the Water and Land Resources Division affirm its earlier variance decision. No new variance should be required. No new variance decision should be required. However, everyone involved surely would feel more comfortable if they knew—even with thirty lots—that WLRD agrees with its earlier determination.
3. Based upon the whole record, and according substantial weight to the determination of environmental significance made by the Land Use Services Division, it is concluded that approval of this subdivision as recommended below would not constitute a major action significantly affecting the quality of the environment. All evidence of environmental impact relating to the proposed action and reasonable alternatives to the proposed action have been included in the review and consideration of this action.
4. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the Comprehensive Plan, Subdivision and Zoning Codes, and other official land use controls and policies of King County.
5. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for drainage ways, streets, other public ways, water supply, and sanitary wastes; and it will serve the public use and interest.
6. The conditions recommended in the Land Use Services Division's Preliminary Report as amended below are in the public interest and are reasonable requirements.

DECISION:

GRANT preliminary plat approval to the proposed subdivision of Hazelwood Ridge, Department of Development and Environmental Services file No. 98P0014, as described in exhibit No. 7 of this hearing record (site plan dated October 26, 1998); SUBJECT to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density and minimum density requirements of the R-6 SO zone classification. All lots shall meet the minimum dimensional requirements of the R-6 zone classification and shall be generally as shown on the face of the approved preliminary plat, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. The Applicant must obtain final approval from the King County Health Department.

5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
6. The Applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
7. Final plat approval shall require full compliance with drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. The following conditions represent portions of the Code. Requirements shall apply to all plats.
  - a. Drainage plans and analysis shall comply with the 1990 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
  - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
  - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # \_\_\_\_\_ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."
8. The following conditions specifically address drainage issues for this particular plat:
  - a. The Applicant applied for and was granted a stormwater diversion variance File Number L98V0089. All conditions of approval for this variance shall be met upon submittal of the engineering plans.
    - All conditions of approval for this variance shall be met upon submittal of engineering plans.
    - Due to a discrepancy in the total number of lots approved (thirty) and the number of lots indicated in the stormwater diversion variance (twenty-seven), the Applicant must obtain a letter from Water and Land Resources Division that indicates the acceptability of thirty lots for the variance. This condition is not intended to require a new variance application.

- b. The retention/detention facilities for this subdivision shall be designed using the King County Runoff Time Series (KCRTS) Level 2 methodology such that post development flow durations shall not exceed pre-development flow durations for all discharges between one-half of the 2-year flow for the 50-year flow. A 20% volumetric safety factor shall be added to facilities meeting these criteria. This standard is the Level 2 Flow Control (Stream Protection Standard) outlined in the 1998 SWDM.
- 9. The following road improvements are required for this subdivision to be constructed according to the 1993 King County Road Standards:
  - a. FRONTAGE: The site frontage along 116th Avenue SE (east side only) shall be improved to the urban collector arterial standard.
  - b. SE 308th Place shall be improved to the urban sub-access street standard.
  - c. Lots 5 through 9 shall have undivided ownership of Tract X and be responsible for its maintenance. Tract X shall be 26 feet wide and improved with a 22-foot-wide, paved surface and controlled drainage per KCRS Section 2.09.
  - d. Modifications to the above road conditions may be considered by King County pursuant to the variance procedures in KCRS 1.08.
- 10. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
- 11. The Applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The Applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
- 12. There shall be no direct vehicular access to or from 116<sup>th</sup> Avenue SE from those lots which abut it. A note to this effect shall appear on the engineering plans and final plat.
- 13. Thirty feet of right-of-way along the west property line shall be dedicated to King County for improvement of 116<sup>th</sup> Avenue Southeast.
- 14. The following note shall be shown on the final engineering plan and recorded plat:

**RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE  
AREAS AND BUFFERS**

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the

preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

Determine the top, toe, and sides of 40% slopes by field survey. Provide a 50-foot buffer from these slopes. The buffer may be reduced to 10 feet as approved (see memo dated 11/16/1998 from Larry West) with the submittal of a satisfactory soils report.

15. The proposed subdivision shall comply with the Sensitive Areas Ordinance as outlined in KCC 21A.24. Permanent survey marking, and signs as specified in KCC 21A.24.160 shall also be addressed prior to final plat approval. Temporary marking of sensitive areas and their buffers (e.g., with bright orange construction fencing) shall be placed on the site and shall remain in place until all construction activities are completed.
16. The Applicant shall delineate all on-site erosion hazard areas on the final engineering plans (erosion hazard areas are defined in KCC 21A.06.415). The delineation of such areas shall be approved by a DDES geologist. The requirements found in KCC 21A.24.220 concerning erosion hazard areas shall be met, including seasonal restrictions on clearing and grading activities.
17. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
18. Suitable recreation space shall be provided consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).
  - a. An overall conceptual recreation space plan shall be submitted for review and approval



- by DDES, with the submittal of the engineering plans. This plan shall include location, area calculations, dimensions, and general improvements. The approved engineering plans shall be consistent with the overall conceptual plan.
- b. A detailed recreation space plan (i.e., landscape specs, equipment specs, etc.) consistent with the overall conceptual plan, as detailed in item a., shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of the final plat documents.
  - c. A performance bond for recreation space improvements shall be posted prior to recording of the plat.

The King County Parks Department, based upon its own analysis pursuant to KCC 21A.14.185, may agree to accept a fee-in-lieu for on-site recreation area in excess of that shown on exhibit No. 8 of this hearing record.

- 19. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation and/or open space area(s).
- 20. Street trees shall be provided as follows:
  - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along 116<sup>th</sup> Avenue SE. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
  - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
  - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
  - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the County has adopted a maintenance program. This shall be noted on the face of the final recorded plat.
  - e. The species of trees shall be approved by DDES if located within the right-of-way. The proposed trees shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
  - f. The Applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
  - g. The Applicant shall contact Metro Service Planning at 684-1622 to determine if 116<sup>th</sup> Avenue SE is on a bus route. If 116<sup>th</sup> Avenue is a bus route, the street tree plan shall also

be reviewed by Metro.

- h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.

A \$538 landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.

21. The proposed subdivision shall comply with the Special Overlay District requirements regarding significant trees (SO-220), Clearing and Grading (SC-P3), and seasonal clearing restrictions.

ORDERED this 28<sup>th</sup> day of January, 1999.

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R. S. Titus, Deputy  
King County Hearing Examiner

TRANSMITTED this 28<sup>th</sup> day of January, 1999, to the parties and interested persons shown on the attached listed.

#### NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) **on or before February 11, 1999**. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council **on or before February 18, 1999**. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar

days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

**MINUTES OF THE JANUARY 26, 1999 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT & ENVIRONMENTAL SERVICES FILE NO. L98P0014 - HAZELWOOD RIDGE:**

R.S. Titus was the Hearing Examiner in this matter. Participating in the hearing were Fereshteh Dehkordi, Bruce Whittaker, Aileen McManus, Ken Peckham, Mel Daley, and Paula Thrush.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 Department of Development and Environmental Services File No. L98P0014
- Exhibit No. 2 Department of Development and Environmental Services Preliminary Report to the Hearing Examiner for the January 26, 1999 public hearing
- Exhibit No. 3 Application dated March 27, 1998
- Exhibit No. 4 Environmental Checklist dated November 25, 1997
- Exhibit No. 5 Declaration of Non-Significance dated November 27, 1998
- Exhibit No. 6 Affidavit of Posting indicating May 13, 1999 as date of posting and May 13, 1998 as date affidavit was received by DDES
- Exhibit No. 7 Preliminary Plat drawing, dated October 26, 1998
- Exhibit No. 8 Land Use Map Kroll Pages 721W and 720E
- Exhibit No. 9 Assessors Maps NE 8-21-5 and NW 9-21-5
- Exhibit No. 10 Steep Slope Assessment report dated July 29, 1998 by Golder Associates
- Exhibit No. 11 Notice of Recommendation and Hearing
- Exhibit No. 12 Surface Water Design Manual Variance File

RST:vam  
Attachment  
L98P0014 rpt